

<b>ITEM</b>	<b>13-15 Stanley Street and 4 Cross Street, BANKSTOWN NSW 2200</b>
	<b>Demolition of existing structures and construction of an eleven (11) storey residential flat building containing seventy (70) units with three (3) levels of basement car parking under the State Environmental Planning Policy (Affordable Rental Housing) 2009</b>
<b>FILE</b>	<b>DA-559/2016</b>
<b>ZONING</b>	<b>B4 Mixed Use</b>
<b>DATE OF LODGEMENT</b>	<b>14 June 2016</b>
<b>APPLICANT</b>	<b>C Stanley Pty Ltd C/- Ghazi Al Ali Architect Pty Ltd</b>
<b>OWNERS</b>	<b>C Stanley Pty Ltd O Abdul-Rahman G Al Ali G Gruchot</b>
<b>ESTIMATED COST</b>	<b>\$18,071,765.00</b>
<b>CIV</b>	<b>\$16,428,878.00</b>
<b>AUTHOR</b>	<b>Development Services (Samantha Mitchell)</b>

### **SUMMARY REPORT**

This matter is reported to the Sydney South Planning Panel in accordance with the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*. The proposed development has an estimated Capital Investment Value (CIV) of \$16,428,878.00 and exceeds the capital investment threshold for 'private infrastructure and community facilities', as the development is for the purposes of affordable housing.

Development Application No. DA-559/2016 proposes the demolition of existing structures and construction of an eleven (11) storey residential flat building containing seventy (70) units with three (3) levels of basement car parking under the State Environmental Planning Policy (Affordable Rental Housing) 2009.

DA-559/2016 has been assessed against *State Environmental Planning Policy (State and Regional Development) 2011*, *State Environmental Planning Policy (Infrastructure) 2007*, *State Environmental Planning Policy No. 55 – Remediation of Land*, *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*, *State Environmental Planning Policy (Building Sustainability Index:*

*BASIX) 2004, Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015* and generally complies with the relevant provisions. The application is recommended for approval subject to the attached conditions of consent.

The application was advertised and notified upon lodgement for a period of twenty-one (21) days from 29 June 2016 to 19 July 2016. No submissions were received. The application was re-notified with amended plans for a period of fourteen (14) days from 5 December 2016 to 19 December 2016. No submissions were received. The application was re-notified again with an amended description for a period of seven (7) days from 23 January 2017 to 30 January 2017. No submissions were received.

### **POLICY IMPACT**

This matter has no direct policy implications.

### **FINANCIAL IMPACT**

This matter has no direct financial implications.

### **RECOMMENDATION**

It is recommended that the application be approved subject to the attached conditions of consent.

# **DA-559/2016 SECTION 79C ASSESSMENT REPORT**

## **SITE & LOCALITY DESCRIPTION**

The subject site is known as 13-15 Stanley Street and 4 Cross Street, Bankstown and is zoned B4 Mixed Use. The site is located in the north-western corner of the intersection of Cross Street and Stanley Street. The consolidated allotments have an area of 1,539.30sqm with a frontage of 41.62 metres to Stanley Street and a frontage of 54.95 metres to Cross Street.

The site comprises of three (3) allotments, which all contain detached single storey dwelling houses with outbuildings and small trees. There are two (2) *Lophostemon confertus* (Brushbox) street trees on the Stanley Street frontage, and two (2) *Callistemon viminalis* (Bottlebrush) and one (1) *Melaleuca decora* (White Feather Honey Myrtle) street trees on the Cross Street frontage. The site is relatively level with a 2.5 metre slope from the north-west corner to the south-east corner.

The subject site is surrounded, in the most part, by dense residential and mixed use development. To the west of the site, at No. 17 Stanley Street, is a three (3) storey residential flat building containing thirty (30) units. To the north of the site, at No. 6-8 Cross Street, is a nine (9) storey residential flat building containing fifty-four (54) units. To the east of the site, at No. 7 Cross Street, is a nine (9) storey mixed use development containing eighty (80) units and commercial/retail floor space. Council is currently assessing a development application at No. 11 Cross Street for two residential flat buildings up to eleven (11) storeys in height containing a total of 156 units. There is an existing place of public worship to the north-east of the site at No. 17 Cross Street. Development to the south of the site, on the southern side of Stanley Street, predominantly comprises of single and two storey dwelling houses.

The site locality is illustrated in the aerial photograph below.



## **PROPOSED DEVELOPMENT**

The Development Application proposes the following works:

- Demolition of existing structures;
- Excavation and site preparation works;
- Construction of an eleven (11) storey residential flat building containing seventy (70) units above three (3) levels of basement car parking. The development consists of 7 x 1-bedroom units, 52 x 2-bedroom units and 11 x 3-bedroom units. The basement car park contains 78 parking spaces, three (3) of which are for persons with a disability.
- Construction of a new vehicular access to the basement car park from the western side of the Stanley Street frontage at the south-west corner of the site.
- Provision of communal open space and landscaping.

Forty (40) of the proposed units will be allocated as affordable rental housing units, which equates to 57% of units and 55% of the total gross floor area of the development. A condition of consent will be imposed to ensure the proposed units are allocated as affordable rental housing units, supported by a restriction on title.

A perspective of the proposed development from the corner of Stanley Street and Cross Street is provided below.



## **SECTION 79C ASSESSMENT**

The proposed development has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*.

### **Environmental planning instruments [section 79C(1)(a)(i)]**

#### **State Environmental Planning Policy (State and Regional Development) 2011**

Part 4 (Regional Development) of the State Environmental Planning Policy (State and Regional Development) 2011 applies to this application as it is for the purposes of 'private infrastructure and community facilities' (i.e. affordable housing) with a capital investment value of more than \$5 million, as specified in Schedule 4A of the EP&A Act, 1979. Accordingly, the development application is to be determined by the Sydney South Planning Panel.

#### **State Environmental Planning Policy (Infrastructure) 2007**

Clause 45(1)(b)(iii) of the State Environmental Planning Policy (Infrastructure) 2007 requires a development application to be referred to the electricity supply authority where the development is to be carried out within 5m of an exposed overhead electricity power line.

Council gave written notice to Ausgrid on 16 August 2016 with an opportunity to provide a response within twenty-one (21) days, as specified in the clause. No written response was received from Ausgrid. Despite this, Council will impose the standard conditions of consent typically requested by Ausgrid in these circumstances. These conditions relate to Ausgrid's Technical Standards and statutory requirements, works undertaken near overhead powerlines, and excavation works near underground cables.

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

The provisions of Clause 7(1) of State Environmental Planning Policy No. 55 – Remediation of Land specifies that a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The development site has long been used for residential purposes and the development application proposes to continue the use of the site for residential purposes. There is no evidence to suggest that the site is contaminated, nor is it considered necessary for any further investigation to be undertaken with regard to potential site contamination. The subject site is considered suitable for the proposed residential use and therefore satisfies the provisions of SEPP No. 55.

### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) aims to *'facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards'*.

Division 1 (Clauses 10 to 17 inclusive) of the ARHSEPP applies to development for the purposes of a residential flat building. An assessment of the proposal against the applicable clauses of Division 1 is provided below.

CLAUSE	REQUIREMENT	PROPOSAL	COMPLIANCE
<b>Clause 10 - Development to which Division applies</b>	(1)(a) the development concerned is permitted with consent under another environmental planning instrument, and	The proposed development is defined as a 'residential flat building', which is permitted with Council consent under the BLEP 2015 in the B4 Mixed Use zone.	Yes
	(1)(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the <i>Heritage Act 1977</i> .	The development is on land that does not contain a heritage item, nor is it located in the vicinity of a heritage item.	Yes
	(2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.	In accordance with Clause 4 of the ARHSEPP, the subject site is identified as being located in an 'accessible area' as it is on land within 800 metres walking distance of the public entrance to the Bankstown Railway Station (approximately 650 metres).	Yes
<b>Clause 13 - Floor space ratios</b>	(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.	55% of the gross floor area of the proposed development is to be used for the purposes of affordable rental housing.  The nominated units include:  G.01, G.02, G.03, G.04, G.05, G.06, 1.01, 1.02, 1.03, 1.04, 1.05, 1.06, 1.07, 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 2.07, 3.01, 3.02, 3.03, 3.04, 3.05, 3.06, 3.07, 4.01, 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 5.01,	Yes

		5.02, 5.03, 5.04, 5.05 and 5.06 (i.e. 40 units).	
	<p>(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</p> <p>(b) if the existing maximum floor space ratio is greater than 2.5:1:</p> <p>(i) 20 per cent of the existing maximum floor space ratio—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</p>	<p>The application proposes 55% of the gross floor area is to be used for the purposes of affordable rental housing. Clause 4.4 of the BLEP 2015 allows a maximum FSR of 3:1 for the subject site.</p> <p>Accordingly, the maximum permitted FSR for the proposed development is 3.60:1 with the inclusion of the additional 20% permitted under the ARHSEPP. The proposed development results in a gross floor area of 5,517.90sqm, which equates to a FSR of 3.58:1.</p>	Yes
<b>Clause 14 - Standards that cannot be used to refuse consent</b>	(1) Site and solar access requirements		
	(b) Site Area at least 450sqm	1,539.30sqm	Yes
	(c) Landscaped Area at least 30 per cent of the site area is to be landscaped	<p>461.70sqm of landscaped area is required.</p> <p>496sqm of landscaped area is proposed (i.e. 32.2%).</p>	Yes
	(d) Deep Soil Zone min. 15% of total site area, and (ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and (iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area	<p>230.90sqm of deep soil zone is required.</p> <p>178sqm of deep soil zone is proposed with a minimum dimension of 3m (i.e. 11.6%). An additional 16sqm of deep soil zone is provided with a dimension of less than 3m.</p> <p>Approximately 60% of the deep soil zone is located at the rear of the site adjacent to the northern boundary.</p>	No, refer to comments below.
	(e) Solar Access min. 70% of dwellings to receive min. 3hrs solar access between 9am and 3pm in mid-winter to living rooms and private open spaces	The proposal achieves 3 hours of sunlight to the living rooms and private open space areas of 20 units (i.e. 28.5%) between 9am -3pm at the mid-winter solstice.	No, refer to comments below.
	(2) General		
	(a) parking (ii) at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2	<p>7 x 1 bed @ 0.5 space/unit = 3.5 spaces</p> <p>52 x 2 bed @ 1 space/unit = 52 spaces</p>	Yes, subject to condition of consent.

	<p>bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,</p>	<p>11 x 3 bed @ 1.5 space/unit = 16.5 spaces</p> <p>Required = 72 spaces</p> <p>Proposed = 78 spaces</p> <p>It is noted, however, that the basement plan proposes 7 of the 78 spaces to be allocated as visitor car parking spaces. Council will impose a condition of consent requiring a minimum of 72 spaces to be allocated for residential purposes, i.e. a maximum of 6 visitor spaces. There is no requirement for visitor parking under the ARHSEPP.</p>	
	<p>(b) dwelling size</p> <p>(i) 35 square metres in the case of a bedsitter or studio, or</p> <p>(ii) 50 square metres in the case of a dwelling having 1 bedroom, or</p> <p>(iii) 70 square metres in the case of a dwelling having 2 bedrooms, or</p> <p>(iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.</p>	<p>The minimum unit sizes proposed are as follows:</p> <p>1 bedroom = min. 50.11sqm 2 bedroom = min. 70.85sqm 3 bedroom = min. 102.75sqm</p>	Yes
<b>Clause 16A - Character of local area</b>	<p>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</p>	<p>The site is located in the B4 Mixed Use zone. Residential flat buildings are permitted with consent in the zone. The development complies with the maximum building height and floor space ratio controls that apply under the BLEP 2015 and ARHSEPP.</p> <p>The development is considered to be compatible with the existing buildings in the locality and is consistent with the desired future character of the area in accordance with Council's development controls.</p>	Yes
<b>Clause 17 - Must be used as affordable housing for 10 years</b>	<p>(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:</p> <p>(a) for 10 years from the date of the issue of the occupation certificate:</p> <p>(i) the dwellings proposed to be used for the purposes of</p>	<p>Conditions reflecting the requirements of Clause 17 will be imposed in the development consent.</p>	Yes, subject to conditions of consent.

	<p>affordable housing will be used for the purposes of affordable housing, and</p> <p>(ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</p> <p>(b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.</p>		
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As demonstrated above, the proposal complies with the majority of the development standards contained in Division 1 of the State Environmental Planning Policy (Affordable Rental Housing) 2009. Further discussion is provided below with respect to the deep soil zone and solar access non-compliances.

#### Deep soil zone

The proposed development does not comply with Clause 14(1)(d) of the ARHSEPP with respect to the deep soil zone requirements, which include a minimum of 15% of the total site area (i.e. 230.90sqm), a minimum dimension of 3m throughout, and at least two-thirds (i.e. 66%) to be located at the rear of the site.

The proposal dedicates 11.6% of the total site area as deep soil zone (i.e. 178sqm) that is greater than 3m in dimension. This area is supplemented by an additional 16sqm of deep soil zone that is less than 3m in dimension. Approximately 60% of the deep soil zone is located at the rear of the site adjacent to the northern boundary.

The non-compliances outlined above are primarily due to the irregular shape of the allotment, which creates difficulty in providing sufficient deep soil zone areas while also achieving compliance with the car parking requirements through an acceptable basement size and configuration. It is further noted that the width of the site narrows by approximately 22m from the front to the rear, therefore the provision of two-thirds of the deep soil zone areas at the rear of the site is not feasible while also achieving a functional site layout.

While the ARHSEPP prevails over the Apartment Design Guide (ADG), it is noted that Objective 3E-1 of the ADG requires 7% of the site area to comprise of deep soil zone. This area is to be a minimum dimension of 3m for a site area of 650sqm-1,500sqm, or 6m for a site area greater than 1,500sqm. The subject site, being 1,539.30sqm in area, would therefore require a minimum deep soil zone of 107.75sqm in accordance with the ADG, and it would be reasonable to consider a width of 3m given the small percentage of the site that exceeds 1,500sqm in area. Accordingly, the proposed deep soil zone is considered to be an appropriate response to the site characteristics and

constraints, as well as an acceptable design with respect to the more recent State government provisions for residential flat buildings.

### Solar Access

Clause 14(1)(e) of the ARHSEPP requires 70% of dwellings to receive a minimum of 3 hours of solar access to the living rooms and private open space areas between 9am and 3pm at the mid-winter solstice.

The subject site is surrounded by existing and proposed multi-storey development (up to 11 storeys in height) to the north, east and west. As a result, 20 units (i.e. 28.5%) of the proposed development achieve 3 hours of solar access between 9am and 3pm. These units are predominantly located on the upper 5 storeys of the building, as well as some units on the lower floors of the building on the western side due to the low-rise (3 storey) residential flat building at No. 17 Stanley Street.

The solar access non-compliance is largely due to the surrounding development, and therefore the situation cannot be significantly improved through the design of the units or the site layout. The subject site comprises of the three remaining parcels of land that are yet to be developed in the immediately locality, and its position on the southern fringe of the B4 Mixed Use zone results in unavoidable overshadowing impacts.

While the ARHSEPP prevails over the Apartment Design Guide (ADG), it is noted that Objective 4A-1 of the ADG requires at least 70% of units in a building to achieve a minimum of 2 hours of direct sunlight between 9am and 3pm at the mid-winter solstice in the Sydney Metropolitan Area. If the development were to be assessed against this control, 54 units (i.e. 77%) would achieve 2 hours of solar access. On this basis, it is reasonable to allow leniency to the control as the proposed development is considered to be acceptable with respect to the more recent State government provisions for residential flat buildings in dense metropolitan areas.

### **State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development**

In assessing an application that contains four or more self-contained dwellings in a building of at least three storeys in height, Council is required to consider the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65). SEPP 65 aims to improve the design quality of residential flat buildings and provides an assessment framework, the Apartment Design Guide, for the assessment of applications under which this is considered. The proposal is consistent with the Design Quality Principles contained within this policy, which promote development that is of good design and appropriate context, scale and density with respect to the desired future character of the area.

Clause 50(1A) of the Environmental Planning and Assessment Regulation, 2000 requires the submission of a design verification statement from the building designer upon lodgement of a development application for a residential flat building. This document has been submitted with the subject application and is considered to satisfy the submission requirements.

SEPP 65 requires the assessment of any development application for residential flat building development against the Design Quality Principles and the matters contained in the Apartment Design Guide (ADG). As such, the following consideration has been given to the requirements of the SEPP.

#### 1. Context and neighbour character

The site is located within the B4 Mixed Use zone, and the objectives of the zone seek:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To maintain the role of the Bankstown CBD as a major metropolitan centre.*

The immediate surrounding area is characterised by a mixture of residential and commercial development types, ranging from single dwelling development to residential flat buildings and mixed use developments. The proposal is considered to be compatible with the existing and desired future character of the area, and will contribute to the quality and identity of the immediate locality.

#### 2. Built form and scale

The proposed development is compliant with the primary building envelope controls and is generally consistent with all applicable planning policies. It is considered that the scale of the development is consistent with that envisaged by the planning controls. The proposed development is of a suitable bulk and scale for the locality. The configuration and proportions of the building are appropriate for the site, and its overall design and treatment is considered to be acceptable.

#### 3. Density

The proposed development results in a FSR of 3.58:1, which complies with the maximum permitted FSR of 3.60:1 in accordance with the BLEP 2015 and the ARHSEPP.

#### 4. Sustainability

The development is subject to the provisions of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and requires a BASIX Certificate to be obtained. The development achieves satisfactory performance with respect to the BASIX water, thermal comfort and energy efficiency targets.

The development is considered to be acceptable with respect to the applicable open space, deep soil zone, natural ventilation and solar access requirements. The development incorporates an appropriate mix of unit sizes consisting of one, two and three bedroom units, including forty (40) affordable rental housing units, and will therefore provide a range of choice and housing affordability for future residents.

## 5. Landscape

The development provides approximately 496sqm of landscaped area at ground level, which is accessible from the common area on the ground floor of the development and some individual units.

## 6. Amenity

The development is considered to be acceptable with respect to natural ventilation, solar access and privacy requirements, and the development incorporates an appropriate mix of unit types. The development is therefore satisfactory with respect to the provision of amenity.

## 7. Safety

Physical and visual barriers provide adequate separation between the public and private spheres. The residential units that address Stanley Street and Cross Street, as well as the provision of intercom and security systems, will allow for an appropriate level of surveillance and security. The two main entrances to the building are clearly visible on the eastern and southern façades of the development.

## 8. Housing diversity and social interaction

The site is located within the B4 Mixed Use zone and the proposal incorporates an appropriate mix of unit sizes and types to cater for the community's lifestyle and housing needs. Forty (40) units (i.e. 55% of the development) are to be provided as affordable rental housing.

## 9. Aesthetics

The overall appearance of the proposed development is considered to be acceptable.

## **Apartment Design Guide**

The Apartment Design Guide was released in 2015 and applies to the development. It is described as "a resource to improve the planning and design of residential apartment development in NSW", and must be considered in the assessment of the development application. Specifically, Clause 28 of SEPP 65 refers to the Apartment Design Guide and states:

- (2) *In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*
- (a) *the advice (if any) obtained from the design review panel, and*
  - (b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
  - (c) *the Apartment Design Guide.*

An assessment of the application against the key 'design criteria' and 'design guidance' contained in Parts 3 and 4 of the Apartment Design Guide, in particular the numerical controls, is provided in the table below.

It is noted that certain development standards contained in the ARHSEPP are inconsistent with the ADG. The proposed development is for the purposes of affordable rental housing, and therefore the development standards in the ARHSEPP prevail over the ADG. As such, the table below does not include an assessment of the proposed development against certain 'design criteria' and 'design guidance' in the ADG, such as deep soil zones, solar access and car parking.

DESIGN CRITERIA/ GUIDANCE	PROPOSAL	COMPLIANCE
<b>Part 3 – Siting of development</b>		
<b>3B-2 Overshadowing of neighbouring properties</b>  Solar access to living rooms, balconies and private open space of neighbours should be considered.  Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures that solar access to neighbouring properties is not reduced by more than 20%	<p>The existing 30 unit residential flat building to the west of the subject site at No. 17 Stanley Street is substantially overshadowed by the existing development to the north at No. 6-8 Cross Street and No. 18-20 Raymond Street. The proposed development will result in a minor increase in overshadowing of the east-facing units of this development from 8.00am to 9.00am at the mid-winter solstice, however, this will not reduce solar access by more than 20%.</p> <p>Similarly, the proposed development will result in a minor increase in overshadowing of the existing 80 unit mixed use development at No. 7 Cross Street from 3.00pm to 4.00pm at the mid-winter solstice, however the overshadowing primarily affects the retail and commercial components of the development in the south-west corner of the building. The proposed development therefore does not reduce solar access to the residential units in this building by more than 20%.</p> <p>The low density residential dwellings to the south of the site on the southern side of Stanley Street are not adversely impacted by the proposed development due to the distance of these properties from the subject site. These dwellings will achieve sufficient solar access in the afternoon hours at the mid-winter solstice.</p>	Yes
<b>3D-1 Communal open space</b>  Communal open space has a minimum area equal to 25% of the site.  Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June.	<p>The proposed communal open space comprises of approximately 215sqm at ground level to the north of the development, and 65sqm on level 5 (6<sup>th</sup> storey) in the form of a rooftop courtyard. This equates to 18.2% of the total site area.</p> <p>The rooftop courtyard achieves 2 hours of solar access to more than 50% of the area between 10am and 12pm at the mid-winter solstice. Minimal solar access is achieved to the ground floor communal open space at the mid-winter solstice due to the density of the surrounding development.</p>	No, refer to comments below.

<p><b>3F-1 Visual privacy (building separation)</b></p> <p>Up to 12m (4 storeys) = 6m to habitable rooms or 3m to non-habitable rooms</p> <p>Up to 25m (5-8 storeys) = 9m to habitable rooms or 4.5m to non-habitable rooms</p> <p>Over 25m (9+ storeys) = 12m to habitable rooms or 6m to non-habitable rooms</p>	<p>The first 4 storeys of the development (i.e. ground, 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floors) comply with a minimum separation distance requirement of 6m to both the side and rear boundaries.</p> <p>The separation of the 5<sup>th</sup> storey (level 4) to the northern (rear) boundary can be treated as non-habitable as the building wall contains no windows, and is therefore compliant with a 6m separation. The separation of the 6<sup>th</sup> storey and above (i.e. levels 5 to 10) to the northern (rear) boundary complies for all floors with a separation distance of 12.53m to habitable rooms.</p> <p>The separation distance of the 5<sup>th</sup> storey and above (i.e. levels 4 to 10) to the western (side) boundary does not comply, with a separation distance of 6m to habitable rooms for all floors.</p>	<p>No, refer to comments below.</p>
<p><b>Part 4 – Designing the building</b></p>		
<p><b>4B-3 Natural cross-ventilation</b></p> <p>At least 60% of apartment are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p>	<p>51 of the 70 units (i.e. 73%) are naturally cross-ventilated, with the inclusion of all units on levels 9 and 10 (i.e. the 10<sup>th</sup> and 11<sup>th</sup> storeys).</p>	<p>Yes</p>
<p><b>4C-1 Ceiling height</b></p> <p>Min. 2.7m for habitable rooms and 2.4m for non-habitable rooms.</p>	<p>The floor to floor height of each level is 3.0m, which allows 300mm for the slab thickness with the accommodation of 2.7m floor to ceiling height for habitable rooms, and 600mm for the slab thickness and service bulkhead with the accommodation of a 2.4m floor to ceiling height for non-habitable rooms.</p>	<p>Yes</p>
<p><b>4D-1 Apartment size</b></p> <p>1 bedroom – min. 50sqm 2 bedroom – min. 70sqm 3 bedroom – min. 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.</p> <p>Every habitable room must have a window in an external wall with a total</p>	<p>The minimum unit sizes proposed are as follows:</p> <p>1 bedroom = min. 50.11sqm 2 bedroom = min. 70.85sqm 3 bedroom = min. 102.75sqm</p> <p>All units with more than one bathroom meet the requirement for an additional 5sqm in area.</p> <p>All habitable rooms have a window in an external wall that exceeds 10% of the floor area of the room.</p>	<p>Yes</p>

area of not less than 10% of the floor area of the room.		
<b>4D-2 Environmental performance</b>  In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	All units in the proposed development are designed with an open plan layout for the living area. The maximum habitable room depth from a window is 7.9m.	Yes
<b>4D-3 Apartment layouts</b>  Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space).  Bedrooms have a minimum dimension of 3m (excluding wardrobe space).  Living rooms or combined living/dining rooms have a minimum width of 3.6m for studio and 1 bedroom apartments and 4m for 2 and 3 bedrooms apartments.	All units comply with the minimum area and dimension requirements for bedrooms.  All units comply with the minimum width requirements for living areas.	Yes
<b>4E-1 Private open space</b>  Balconies: 1 bed – 8sqm, 2m depth 2 bed – 10sqm, 2m depth 3 bed – 12sqm, 2.4m depth  Ground floor units: 15sqm, 3m depth	All upper floor units comply with the minimum balcony area and depth requirements, with the exception of Unit 5.03 on Level 5.  The majority of ground floor units comply with the minimum area and depth requirements for the courtyards, with the exception of Units G.04 and G.06 with respect to depth, and Unit G.05 with respect to area and depth.	No, refer to comments below.
<b>4F-1 Common circulation spaces</b>  The maximum number of apartments off a circulation core on a single level is eight.  For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	The development accommodates a maximum of 7 units on each floor accessed from a single corridor.  The development accommodates two lifts to service all 70 units.	Yes
<b>4G-1 Storage</b>  1 bed – 6cbm 2 bed – 8cbm 3 bed – 10cbm	The application proposes a 56sqm storage room on basement floor 2 and 77sqm storage room on basement floor 3, both of which contain several storage cages. Furthermore, the architectural plans show various designated storage areas within the individual units. The development is capable of complying with this control, however	Yes, subject to condition of consent.

At least 50% of the required storage is to be located within the apartment.	due to the difficulty in undertaking an accurate assessment without the allocation of basement storage cages to specific units, a condition of consent will be imposed to ensure compliance with this requirement for the respective 1 bedroom, 2 bedroom and 3 bedroom units.	
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As demonstrated above, the proposal is generally consistent with the key 'design criteria' and 'design guidance' contained in Parts 3 and 4 of the Apartment Design Guide. Further discussion is provided below with respect to the communal open space, visual privacy (building separation) and private open space non-compliances.

### Communal open space

Objective 3D-1 of the ADG requires the provision of a minimum communal open space area equal to 25% of the total site area (i.e. 384.83sqm). Furthermore, the development must achieve a minimum of 50% of direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June.

The proposed communal open space comprises of approximately 215sqm at ground level to the north of the development, and 65sqm on level 5 (6<sup>th</sup> storey) in the form of a rooftop courtyard. This equates to 18.2% of the total site area. The rooftop courtyard achieves 2 hours of solar access to more than 50% of the area between 10am and 12pm at the mid-winter solstice. However, minimal solar access will be achieved to the ground floor communal open space at the mid-winter solstice due to the density of the surrounding development.

The ADG recommends communal open space to be co-located with deep soil zone areas, and therefore the provision of part of the communal open space at ground level at the northern (rear) end of the site is appropriate in this regard. In addition, the provision of a rooftop courtyard on Level 5 (6<sup>th</sup> storey) to supplement the ground floor communal open space is considered to be an appropriate response to the solar access requirements.

It is further noted that the subject site is positioned approximately 30m north-west of Stevens Reserve, which is a large public open space area at the corner of Stacey Street and Stanley Street. Given the extent of private open space provided for each individual unit, and the proximity of the site to Stevens Reserve, it is considered that the development does not warrant a large dedicated communal open space area.

### Visual privacy (building separation)

Objective 3F-1 of the ADG outlines minimum separation distance requirements, relative to the height of the residential flat building, in order to achieve reasonable levels of external and internal visual privacy.

The first 4 storeys of the development (i.e. ground, 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floors) comply with a minimum separation distance requirement of 6m to both the side and rear boundaries. The separation of the 5<sup>th</sup> storey (level 4) to the northern (rear) boundary

can be treated as non-habitable as the building wall contains no windows, and is therefore compliant with a 6m setback. The separation of the 6<sup>th</sup> storey and above (i.e. levels 5 to 10) to the northern (rear) boundary also complies for all floors with a setback of 12.53m to habitable rooms. Accordingly, the separation distance of the proposed development is only non-compliant for the 5<sup>th</sup> storey and above (i.e. levels 4 to 10) to the western (side) boundary, with a distance of 6m to habitable rooms for all floors.

The design of the building envelope for the proposed development is a direct response to the surrounding development to the north and west of the site. The existing residential flat building to the north at No. 6-8 Cross Street is nine (9) storeys in height, and the proposed development responds to this constraint with a compliant separation distance to the northern boundary for all storeys. The existing residential flat building to the west at No. 17 Stanley Street is 3 storeys in height, and the proposed development responds to this with a compliant separation distance to the western boundary for the first four storeys (i.e. for the equivalent building height).

As the development at No. 17 Stanley Street comprises of thirty (30) strata units under separate ownership, it is unlikely that this site will be redeveloped in the future. It is therefore considered acceptable for the proposed development to encroach on the separation distance requirement for the upper storeys (levels 5 to 10). It is noted that the eastern building wall of the development at No. 17 Stanley Street is setback 8.5m from the common boundary at the closest point, and therefore a separation distance of 14.5m is achieved between the two buildings, despite the non-compliance for levels 5 to 10. The non-compliance does not result in any adverse overshadowing impacts on No. 17 Stanley Street due to the positioning of the buildings. The non-compliance also improves the amenity of the units within the subject development with respect to solar access, layout and orientation.

#### Private open space

Objective 4E-1 of the ADG outlines minimum area and depth requirements for balconies and ground floor courtyards.

All upper floor units comply with the minimum balcony area and depth requirements, with the exception of Unit 5.03 on Level 5. Unit 5.03 falls short of the minimum area requirement by 0.5sqm, however this is considered to be acceptable as the unit is located immediately adjacent to the communal open space area on Level 5 of the development. The layout and size of the balcony is considered to be functional and sufficient for a 1 bedroom unit, and the adjacent communal open space area can be used to supplement the balcony for larger entertaining purposes.

The majority of the ground floor units comply with the minimum area and depth requirements for the courtyards, with the exception of Units G.04 and G.06 with respect to depth, and Unit G.05 with respect to both area and depth.

Units G.04 and G.06 do not strictly comply with the minimum dimension requirement of 3m due to the 'L' shaped configuration of the courtyards. Regardless of this non-compliance, the courtyards are well-designed and functional with direct access from the living areas of these units.

Unit G.05 does not comply with the minimum area and depth requirements for a ground floor courtyard due to the proximity of the unit to the basement driveway. As a result, the private open space of this unit resembles a balcony as opposed to a ground floor courtyard as the ground level is excavated immediately below. If the private open space of Unit G.05 were to be assessed against the controls for upper floor balconies, the unit would comply with the applicable area and dimension requirements. It is further noted that the majority of the ground floor units contain private open space areas that significantly exceed 15sqm in area, i.e. an average of 37sqm per unit.

#### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the development and aims to encourage sustainable residential development.

BASIX Certificate No. 730494M\_02, dated 24 November 2016, was submitted throughout the assessment of the development application and demonstrates that the proposal achieves compliance with the BASIX water, thermal comfort and energy efficiency targets.

#### **Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment**

The subject site is located within the Georges River Catchment and accordingly Greater Metropolitan Regional Environmental Plan No. 2 (GMREP 2) applies. The proposed works are consistent with the relevant planning principles outlined in GMREP 2, and the proposal does not include any of the specific development types listed under the 'planning control table'.

#### **Bankstown Local Environmental Plan 2015**

The following clauses of the Bankstown Local Environmental Plan (BLEP) 2015 are relevant to the proposed development and were taken into consideration:

- Clause 1.2 – Aims of Plan;
- Clause 1.3 – Land to which Plan applies;
- Clause 2.1 – Land Use zones;
- Clause 2.2 – Zoning of land to which Plan applies;
- Clause 2.3 – Zone objectives and Land Use Table;
- Clause 2.7 – Demolition requires development consent;
- Clause 4.3 – Height of buildings;
- Clause 4.4 – Floor space ratio;
- Clause 4.5 – Calculation of floor space ratio and site area;
- Clause 5.9 – Preservation of trees or vegetation;
- Clause 6.2 – Earthworks;
- Clause 6.3 – Flood planning.

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of the BLEP 2015, with the exception of Clause 4.4 in relation to floor space ratio.

The proposed development is for the purposes of affordable rental housing. Clause 13(2)(b)(i) of the ARHSEPP allows the provision of additional floor space ratio equivalent to 20 percent of that permitted by Clause 4.4 of the BLEP 2015. In accordance with Clause 8 of the ARHSEPP, the SEPP prevails the BLEP 2015 to the extent of that inconsistency.

The proposed development is therefore considered to be acceptable with regard to the relevant objectives and controls contained in the BLEP 2015.

### **Draft environmental planning instruments [section 79C(1)(a)(ii)]**

There are no draft environmental planning instruments applicable to the proposed development, and the provisions of Section 79C(1)(a)(ii) therefore do not apply to this development.

### **Development control plans [section 79C(1)(a)(iii)]**

The development has been assessed against the following parts of the Bankstown Development Control Plan (BDCP) 2015:

- Part A1 - Centres;
- Part B5 - Parking;
- Part B11 - Tree Preservation Order;
- Part B12 - Flood Risk Management; and
- Development Engineering Standards.

The following table provides a detailed assessment of the proposal against the applicable development standards contained in Part A1 and Part B5 of the BDCP 2015.

DCP CONTROL	PROPOSAL	COMPLIANCE
<b>Part A1 - Centres</b>		
<b>Setbacks</b>		
<b>2.1</b> Development must comply with the minimum street setbacks as shown in Figure 3. – <b>min. 3m</b>	The development is proposed to be setback a minimum of 3m from the Stanley Street frontage and a minimum of 2.8m from the Cross Street frontage.	No, refer to comments below.
<b>2.2</b> In determining the side and rear setbacks, Council must take into consideration the following matters: (a) whether the proposed setbacks respond to site conditions; and (b) whether the proposed setbacks are compatible	The development is setback a minimum of 6m from the western (side) boundary for all storeys. The development is setback a minimum of 6m from the northern (rear) boundary for the first 5 storeys and a minimum of 12.53m for all storeys above.	Yes, the proposed setbacks are considered to satisfactorily respond to the site conditions, primarily being that the site comprises the last remaining parcels of land within the immediate locality that do not already accommodate multi-storey residential or mixed

<p>with the surrounding context and desired character of the precinct; and</p> <p>(c) whether the proposed setbacks comply with the Apartment Design Guide.</p>		<p>use development. The proposed site layout and building envelope is largely influenced by the surrounding development. The proposed setbacks appropriately respond to the setbacks of the existing development to the north and west of the site. The non-compliance with the separation distance controls contained in the ADG has been discussed in detail above and is considered to be acceptable in this instance.</p>
<p><b>Building orientation</b></p> <p><b>2.5</b> The orientation of dwellings must consider the Apartment Design Guide.</p>	<p>All units within the development, including living areas and private open space areas, orientate to the north, east or west, where possible. The proposed communal open space, both at ground level and on Level 5 (6<sup>th</sup> storey) are positioned to the north of the building. The development is considered to satisfy the ADG with respect to building and dwelling orientation.</p>	<p>Yes</p>
<p><b>Building design</b></p> <p><b>2.7</b> Development must articulate the facades to achieve a unique and contemporary architectural appearance that:</p> <p>(a) unites the facades with the whole of the building form;</p> <p>(b) provides the facades with an appropriate scale and proportion that responds to the use of the building and the desired character of the precinct;</p> <p>(c) combines high quality materials and finishes; and</p> <p>(d) considers any other architectural elements to Council's satisfaction.</p> <p><b>2.8</b> Development must use colour, modulation or articulation to improve the appearance of blank party walls when viewed from the street.</p>	<p>The façades of the development are articulated through the use of balconies, windows and recessed elements. The design and proportions of the façade are appropriate with respect to the surrounding development and character of the area. The proposed materials and finishes are of high quality and are contemporary in nature.</p> <p>The development does not comprise of any excessive blank walls when viewed from the street.</p>	<p>Yes</p> <p>Yes</p>
<p><b>Building design (gateway and corner sites)</b></p>		

<p><b>2.9</b> Development at gateway and corner sites must:</p> <p>(a) ensure the building facade incorporates one of the following corner elements at the street corner:</p> <p>(i) an architectural roof feature at the street corner that emphasises the corner element; or</p> <p>(ii) provide a different setback for the top floor at the street corner by emphasising the corner element; or</p> <p>(iii) provide a different architectural treatment to the building facade at the street corner to emphasise the corner element; and</p> <p>(b) ensure the car parking area and outdoor display area are not visible to the street, or do not present as blank walls to the street.</p>	<p>The façade of the development incorporates a number of design elements recommended for corner allotments, including:</p> <ul style="list-style-type: none"> <li>• an architectural roof feature in the south-east corner;</li> <li>• vertical treatment on the façade that distinguishes the corner element from the eastern and southern elevations; and</li> <li>• varied materials and finishes for the corner element.</li> </ul> <p>All on-site car parking is accommodated within the basement of the development and is therefore not visible to the street.</p>	<p>Yes</p>
<p><b>Active street frontages</b></p> <p><b>3.2</b> The design of street frontages must ensure:</p> <p>(a) the ground floor is at the same general level as the footpath and accessible directly from the street; and</p> <p>(b) the ground floor provides a positive street address in the form of entries, lobbies and clear glazing that contribute to street activity and promote passive surveillance. The ground floor facade must minimise large expanses of blank walls.</p>	<p>The ground floor level of the proposed development is a maximum of 1m above the footpath level at the highest point and is directly accessible from the street. The minor elevation of the ground floor level allows passive surveillance of the public domain.</p> <p>The entries and private open space areas at ground level appropriately address the street through the use of stair and ramp access pathways in various locations. The ground floor façade does not comprise of extensive blank walls.</p>	<p>Yes</p>
<p><b>Vehicle footpath crossings</b></p> <p><b>3.3</b> Development must optimise the opportunities for active street frontages and streetscape design by:</p>	<p>The VFC providing vehicular access to the basement is 6 metres in width, which is the minimum requirement for a combined entry</p>	<p>Yes</p>

(a) making vehicle access points as narrow as possible; (b) limiting the number of vehicle accessways to a minimum; and (c) avoiding the location of car park entries, driveways and loading docks at the corners of street intersections.	and exit Category 2 driveway in accordance with AS 2890.1:2004.  One vehicular access point is proposed.  The vehicular access to the basement is located on the western side of the Stanley Street frontage, approximately 40m from the intersection with Cross Street.	
<b>Part B5 - Parking</b>		
<b>Parking requirements for people with disabilities</b>  <b>2.7</b> Development should provide special parking spaces for people with disabilities at the rate of at least one car space per 100 car spaces provided.	The development includes 78 car parking spaces, of which three are proposed for people with a disability.	Yes

As demonstrated above, the proposal generally complies with the applicable development controls contained in the Bankstown Development Control Plan 2015. Further discussion is provided below with respect to the secondary frontage setback non-compliance.

### Secondary frontage setback

Clause 2.1, Part A1 of the BDCP 2015 requires a minimum setback of 3m to Stanley Street and Cross Street. The development is proposed to be setback a minimum of 3m from the Stanley Street frontage and a minimum of 2.8m from the Cross Street frontage.

The minor setback non-compliance for the Cross Street frontage only relates to small corners of the building wall. The development has been designed with a staggered façade adjacent to this frontage to respond to the irregular allotment shape and the angle of the site boundaries. The design ensures appropriate amenity for the units along this frontage by ensuring that bedrooms and living areas are generally square or rectangular in shape. It is also noted that the setback of the building wall to the Cross Street frontage significantly exceeds 3m when calculated as an average setback due to the staggered façade.

### **Planning agreements [section 79C(1)(a)(iia)]**

There are no planning agreements applicable to the proposed development.

### **The regulations [section 79C(1)(a)(iv)]**

The proposed development is consistent with the relevant provisions of the *Environmental Planning and Assessment Regulation, 2000*.

### **Any coastal zone management plan [section 79C(1)(a)(v)]**

The development site is located within the Georges River Estuary Coastal Zone Management Plan. The proposed development does not contravene any relevant provisions of the plan.

### **The likely impacts of the development [section 79C(1)(b)]**

As discussed throughout this report, the proposed development is considered to be acceptable with regard to its likely environmental, social and economic impacts on the locality.

### **Suitability of the site [section 79C(1)(c)]**

The proposed development is permitted with consent on the subject site, and represents a built form that is compatible with the existing and desired future character of the locality. Environmental matters have been appropriately addressed, with the proposed tree removal, stormwater design, traffic impacts and waste management having been examined by Council officers and supported. The site is therefore considered to be suitable for the proposed development.

### **Submissions [section 79C(d)]**

The application was advertised and notified upon lodgement for a period of twenty-one (21) days from 29 June 2016 to 19 July 2016. No submissions were received. The application was re-notified with amended plans for a period of fourteen (14) days from 5 December 2016 to 19 December 2016. No submissions were received. The application was re-notified again with an amended description for a period of seven (7) days from 23 January 2017 to 30 January 2017. No submissions were received.

### **The public interest [section 79C(1)(e)]**

The proposed development would not contravene the public interest. The proposed development responds appropriately to the requirements of the ARHSEPP, SEPP 65 and the Apartment Design Guide, as well as the relevant standards and controls contained in the *Bankstown Local Environmental Plan 2015* and the *Bankstown Development Control Plan 2015*. It is considered that there will be no unreasonable impacts on the locality.

### **CONCLUSION**

The Development Application has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act, 1979* and the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*, *State Environmental Planning Policy (Infrastructure) 2007*, *State Environmental Planning Policy No. 55 – Remediation of Land*, *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *Greater Metropolitan Regional Environmental Plan*

*No. 2 – Georges River Catchment, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.*

The proposed development represents an appropriate built form for the site and the relevant planning controls have been appropriately responded to. No concerns have been raised in public submissions, and the proposal is not considered to have any unacceptable or unreasonable impacts on the surrounding locality.

### **RECOMMENDATION**

It is recommended that the application be approved subject to the attached conditions of consent.